

MONTANA LEGISLATIVE HISTORY

Chapter 585 19 79

Bill H 421 S _____ Original bill & history C

H. Committee on Taxation

S. Committee on Taxation

Hearing Date(s) Feb 08 ✓ C

Hearing Date(s) Mar 27 ✓ C

Mar 16 ✓ C

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Date Out Mar 16 ✓ C

Mar 27 ✓ C

Did this bill originate in an interim committee? Yes No

Committee _____

Report _____

1 House BILL NO. 471
2 INTRODUCED BY Salvatore Roshie
3 BY REQUEST OF THE DEPARTMENT OF REVENUE
4

5 A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE AUTHORITY
6 FOR ADDITIONAL TAX ASSESSMENTS AND REFUNDS OF THE RESOURCE
7 INDEMNITY TRUST TAX; AMENDING SECTION 15-38-106, MCA."
8

9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

10 Section 1. Section 15-38-106, MCA, is amended to read:

11 "15-38-106. Payment of tax -- ~~receipt and disposition~~
12 ~~records -- collection of taxes -- refunds.~~ (1) The tax
13 imposed by this chapter shall be paid by each person to
14 which the tax applies, on or before March 31, on the value
15 of product in the year preceding January 1 of the year in
16 which the tax is paid. The tax shall be paid to the
17 department at the time that the statement of yield is filed
18 with the department.

19 (2) ~~The department shall issue a receipt for the tax~~
20 ~~and promptly turn the tax over to the state treasurer for~~
21 ~~deposit in the resource indemnity trust account of the trust~~
22 ~~and legacy fund. Every person to whom the tax applies shall~~
23 ~~keep records in accordance with 15-38-105, and the records~~
24 ~~are at all times during the business hours of the day~~
25 ~~subject to inspection by the department or its agents or~~

1 ~~employees. The purchasers of such minerals shall also~~
2 ~~furnish to the department, upon request, all data relative~~
3 ~~to the shipment and gross value of such products that may be~~
4 ~~required to properly enforce the provisions of this chapter.~~
5 ~~Failure of any purchaser to comply with the provisions of~~
6 ~~this section makes the purchaser liable for a penalty of~~
7 ~~\$100 for each day the purchaser fails to furnish such~~
8 ~~statement.~~

9 (3) ~~The department shall examine each of the~~
10 ~~statements and compute the taxes thereon, and the amount~~
11 ~~computed by the department shall be the taxes imposed,~~
12 ~~assessed against, and payable by the taxpayer making the~~
13 ~~statement for the year for which the statement is filed. If~~
14 ~~the tax found to be due is greater than the amount paid, the~~
15 ~~excess shall be paid by the taxpayer to the department~~
16 ~~within 30 days after written notice of the amount of~~
17 ~~deficiency is mailed by the department to the taxpayer. If~~
18 ~~the tax imposed is less than the amount paid, the difference~~
19 ~~must be applied as a tax credit against tax liability for~~
20 ~~subsequent years, or refunded if there is no subsequent tax~~
21 ~~liability."~~

-End-

Rep. Johnson asked where the premium tax is received. Mr. Clarke said the tax is collected and paid by the company and it is included in the premium and remitted to the insurance department. All receipts go into the general fund - \$12,656,000 was paid to the general fund, insurance department and fire marshals. This includes all forms of life insurance. Mr. Clarke further stated that large amounts of this premium tax paid to the state go back to cities for payment of firemen's pensions.

Rep. Bertelsen asked Mr. Clarke if it is his feeling that this workmen's compensation fund is in direct competition with your type of insurance. Yes.

Rep. Huennekens explained you cope with an inequity whereby private insurance firms in the private sector pay a very definite tax on premiums whereas such firms as the Blues do not pay a tax on the premium but voluntarily submit payment in lieu and the other competition is in workmen's comp with the state not levying a tax on the premiums.

Rep. Fabrega asked where health companies invest their assets. Mr. Clarke explained health service corporations are regulated in a very limited degree and have no restrictions on their investments or how they diversify. He thinks primarily they invest in Montana-type securities.

Rep. Bertelsen asked if Mr. Clarke felt that private industry could satisfy that need better and more equitably than is being done. Mr. Clarke said both workmen's compensation division of Montana and private sector operate under the same laws. All their claims are approved by workmen's compensation and so if there are agreements with them, there must be some connection.

Rep. Les Hirsch, District #52, Miles City, sponsored House Bill 466 at the Request of the Department of Revenue. He explained this bill deals with license taxes for four different companies.

HOUSE BILL James Madison, Administrator of Miscellaneous Tax Division
466 of the Department of Revenue, said there are 25 different
types of taxes in his division. They are trying to project
standardized penalties at 10%; provide uniform collection
procedures and granting of extensions; and waiving penalty if good cause can
be shown. All reference to payment of tax to state treasurer has been deleted.
Repealed sections are included under "new sections".

There were no opponents.

Hirsch did not feel it necessary to close. No questions from the committee.

Representative Jay Fabrega, House District #44, sponsored House Bill 471 at the request of the Department of Revenue.

HOUSE BILL James Madison, Administrator of Miscellaneous Tax Division
471 of the Department of Revenue explained the language in HB 471
is copied almost verbatim from the sections of oil producers
tax and natural gas tax. They have had problems with the
McAllister Fuel Company because of "new" oil and "old" oil; and McAllister
got caught in the middle of the price differential.

They then approached the State of Montana for a refund which can be given for oil and natural gas tax, but there is no authority for indemnity trust tax refund. Some statutory provision for refund and refunding authority is necessary.

OPPONENTS:

Jim Mockler, Executive Director of Montana Coal Miners Association and Rocky Mountain Gas Association, said this bill would allow employees to examine confidential information. Purchasers are required to keep those same records and be liable for them. Coal is valued and assessed at the point of severance. The smelter has no idea of what the value of the ore is at the point of severance. 15-30-109 restricts the access to records and makes it confidential and applies only to producers - no access to buyers' records. Under Section 1 he has already submitted the tax. Cannot get any refund for money paid in. This bill is considerably more complex than it was described to be and hope you do not give it a do pass.

QUESTIONS:

Rep. Fabrega explained the gross value at the point of extraction is not known by the purchaser of the minerals. The purchaser pays for crushing, transportation, etc., and the value then is not the same as it is at the mine mouth.

Mr. Madison said they can go in and examine records at any time and could extend to the purchaser and get their figures. They are maintaining a purchase record for minerals in the state in order to keep track of who is mining and selling minerals in the state. Purchaser could be anywhere in the country.

In answer to the suggestion that an intermediate handler be appointed, Mr. Mockler feels the indemnity trust tax is a sham - information can be obtained from other records. They have almost the same type of records in other fields such as the wellhead tax for oil and natural gas is the same on several records and can be found. Confidentiality is a sham.

Rep. Fabrega suggested removal of "gross value". Mr. Mockler said if we remove gross value, all data relative to shipment would have to be furnished.

Mr. Huennekens said this would verify the amount of the shipment, and this is a very confidential matter to the miner who wants the production of his mine kept strictly confidential. Perhaps the total volume could be stated in ounces per ton. The ore might have been upgraded after mining, but the tax is based on the ore itself and he may mine 10,000 tons of ore and ship only three.

Mr. Madison wants individuals to use this information in preparing metal mines tax or indemnity trust tax. The statement the smelter gives the miner shows the number of ounces of mineral and the amount they are paid.

Mr. Mockler feels this information must retain confidentiality. He doesn't know what the purpose of the bill is if they already have this information.

Mr. Madison said they can go and look at that information at ASARCO or Anaconda. Section 2 is requiring when they request it that this information would be furnished to them in Helena. He wants those smelting Montana ores and minerals out of state to furnish this information. Producers pay the tax.

Rep. Vinger suggested that one man could be eliminated if it weren't necessary to go out in the field. Mr. Madison said they don't know how much indemnity trust tax is being underreported. It would save travel expenses, but can't see one man being eliminated.

EXECUTIVE SESSION: -

HOUSE BILL 63: After discussion on the State of Intent required for this bill, Rep. Lien moved that the "Statement of Intent" be accepted as written. Rep. Fabrega voted "No". Motion carried. Reps. Burnett, Reichert, Gilligan were absent.

HOUSE BILL 94: Rep. Nordtvedt moved HB 94 DO PASS AS AMENDED. Rep. Robert Sivertsen moved to adopt amendments (see standing committee report). Amendments were adopted by a 9-6 roll call vote. Reps. Burnett, Gilligan, Reichert, Harrington were absent. HB 94 motion to adopt as a Do Pass as Amended was adopted by a roll call vote of 9-6. Members absent were Reps. Burnett, Gilligan, Reichert and Underdal.

The question arose after further discussion of just which corporations were to be allowed this increased investment credit allowance. The staff attorney is to review the 1977 act.

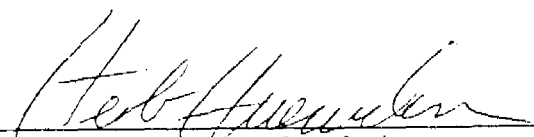
HOUSE BILL 466: Rep. Robbins moved HB 466 DO PASS. Unanimously approved. Reps. Reichert, Burnett, Fagg, Gilligan were absent.

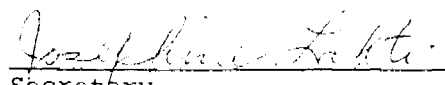
HOUSE BILL 457: Rep. Sivertsen moved that there be a Statement of Intent which Randy will write stating that any additional costs shall be borne by the Department of Revenue. Motion carried with Rep. Hirsch voting No. Reps. Burnett, Reichert, Gilligan, Fagg were absent.

Rep. Bertelsen moved to amend HB 457 on page 1, line 12, following "legislature", insert: "upon request". Amendment was approved unanimously, with the same four members absent.

A general discussion of House Bills 479 and 546 was had.

Meeting adjourned at 11:00 a.m.


REP. HERB HUENNEKENS, Chairman


Secretary

EXECUTIVE SESSION

HOUSE BILL 471 - Rep. Fabrega moved that HB 471 DO PASS. He then moved proposed amendments be adopted. Amendments were adopted unanimously. Reps, Nordtvedt, Lien, Harrington were absent. Motion to Do Pass carried with Rep. Sivertsen voting No. Same members were absent.

HOUSE JOINT RESOLUTION 44 - Rep. Dozier moved HJR 44 DO PASS. He then moved proposed amendments be adopted. Rep. Johnson voted no on amendments suggesting that 24 cases is too few for sales promoting purposes. Amendments were adopted. HJR 44 AS AMENDED DO PASS motion carried with No Noes. Rep. Fagg was absent. (Proposed amendments attached)

HOUSE BILL 631 was brought up for discussion. Rep. Burnett said HB 631 will not take away any revenue and in turn will decrease the state cost of state employees plus the fact that you wouldn't have the inventory to carry and ought to be all of this in the particular amendments available to be printed if so desired. We would license the various package stores and would maybe add \$100,000 to it.

This bill was heard in Business and Industry House Committee. It is trying to take the state out of the liquor business. Labor unions and retail clerks were against this bill when heard in B&I. Liquor stores were thinking about striking awhile back. Don't know if they can use this part of the liquor revenue to make adjustments or not.

Rep. Fabrega asked are you saying we could save \$9 million at this time? Rep. Burnett was not saying what could be saved. This doesn't reflect the licensing of the liquor stores. Rep. Huennekens asked what would the gross revenue be. Could we find out what the profit is? Rep. Burnett said this makes about \$22 million and after deducting this amount from it, it brings in an approximate profit of \$16-17 million to the state.

Rep. Fabrega said if we go to wholesale only, obviously will be selling for a lot less and the revenue will drop by probably \$4.3 million or more. Rep. Burnett said wine alone had an 81% markup and have to divorce wine from this and this makes it difficult to do. Rep. Huennekens asked if the committee should wait and see how the wine deal works out. Rep. Dassinger said he can see only a revenue loss in this unless liquor prices are raised. Until we get a detailed report on this as to what loss this bill would cause the state it might be best to wait.

Rep. Sivertsen would like to have a little more information. When we start talking about a loss to the state, we don't know where we got the idea that the state can run a business better than private enterprise. He thinks the people want the state to get out of the liquor business and give it to private enterprise. Rep. Burnett mentioned there has been some discussion about abuse of drinking in liquor stores. Rep. Johnson commented people can get cheaper liquor in liquor stores than in private business, and asked what is wrong with the state being in the liquor business. Rep. Burnett added that when a store doesn't make money under state management, it makes the store into a commission store and then that store makes money.

Rep. Huennekens presented the committee with a proposal for a new committee bill that would allow the state to issue and sell notes in anticipation of

MINUTES OF THE MEETING
TAXATION COMMITTEE
MONTANA STATE SENATE

March 27, 1979

The fifty-ninth meeting of the Taxation Committee was called to order on the above date in Room 415 of the State Capitol Building by Chairman Turnage.

ROLL CALL: Roll call found all the members present except Senators Brown, Roskie and Manley, all excused.

CONSIDERATION OF HOUSE BILL 471: Representative Fabrega said the bill was at the request of the Department of Revenue and dealt with the returns on trust and indemnity tax. He said the House Tax Committee had limited the language in the bill. He said further, coal companies had pointed out their contracts are serious matters and the language in the law gave the Department authority to look at the contracts. He said the bill would amend the law. Mr. McGee of the Department said the Department had had problems with one of the fuel companies in the state and the Federal Energy Commission had required they process a refund. Mr. Burr also testified briefly saying that company was selling old oil at new oil prices and a substantial refund was made to their customers.

The Chairman called for further proponents and opponents and then for questions from the committee. Several amendments were suggested, to have funds go to ear marked fund, to the Resource Indemnity Fund, to be deposited by the Department. This motion was moved by Senator Towe; motion carried.

Senator Norman then Moved HB471 As Amended, Be Concurred In. His motion carried.

CONSIDERATION OF HOUSE BILL 702: Representative Fabrega said this bill provided that for taxes paid under protest the court can direct the county to pay the refund, if a refund is due. Mr. Zinnecker of the Montana Association of Counties testified also and said it was the intent to tie the responsibility with the Department. At present he said, it puts the counties in the position of trying to defend the Department and this bill would tie the Department to those cases so they could defend their own actions.

The Chairman asked for other proponents or opponents and there being none, permitted questions by the committee. Chairman Turnage asked if this would have anything to do with the present Coal Tax lawsuit. He also said if there is a suit against the Department it must be clarified that it is in the right venue of the taxpayer. An amendment was recommended that the "costs shall be assessed against the Department of Revenue but not against the taxing unit" which the committee then considered and accepted. The motion was made to adopt such amendment by Senator Towe, and carried. Motion was also made, and accepted to include "For the purposes of proceedings before the county tax appeals board, service on the department may be obtained by serving the local county assessor" and this amendment, moved by Senator Towe, was also carried.

HOUSE BILL NO. 471

INTRODUCED BY FABREGA, ROSKIE

BY REQUEST OF THE DEPARTMENT OF REVENUE

A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE AUTHORITY FOR ADDITIONAL TAX ASSESSMENTS AND REFUNDS OF THE RESOURCE INDEMNITY TRUST TAX; AMENDING SECTION 15-38-106, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 15-38-106, MCA, is amended to read:

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(2) The department shall issue a receipt for the tax and promptly turn the tax over to the state treasurer for deposit in the resource indemnity trust account of the trust endowment fund. THE DEPARTMENT SHALL DEPOSIT THE PROCEEDS OF THE TAX IN THE RESOURCE INDEMNITY TRUST ACCOUNT OF THE TRUST AND LEGACY FUND. Every person to whom the tax applies shall keep records in accordance with 15-38-105, and the

records are at all times during the business hours of the day subject to inspection by the department or its agents or employees. The purchasers of such minerals shall also furnish to the department upon request all data relative to the shipment and gross value of such products that may be required to properly enforce the provisions of this chapter. Failure of any purchaser to comply with the provisions of this section makes the purchaser liable for a penalty of \$100 for each day the purchaser fails to furnish such statements UPON REASONABLE NOTICE DURING NORMAL BUSINESS HOURS.

(3) The department shall examine each of the statements and compute the taxes thereon, and the amount computed by the department shall be the taxes imposed, assessed against, and payable by the taxpayer making the statement for the year for which the statement is filed. If the tax found to be due is greater than the amount paid, the excess shall be paid by the taxpayer to the department within 30 days after written notice of the amount of deficiency is mailed by the department to the taxpayer. If the tax imposed is less than the amount paid, the difference must be applied as a tax credit against tax liability for subsequent years, or refunded if there is no subsequent tax liability REQUESTED BY THE TAXPAYER."

-End-